



VII  
RECEIVED

NEW YORK CITY PUBLIC SCHOOLS

JUN 26 1992

JOSEPH A. FERNANDEZ  
CHANCELLOR

COMMUNITY SUPERINTENDENT  
DISTRICT # 22

June 26, 1992

MEMORANDUM

To: All Community Superintendents, High School Superintendents and Executive Directors

From: David Bass *DB*  
Deputy Executive Director

Subject: Progressive Discipline in the Discharge of Non-Pedagogical and Non-Competitive Civil Service Employees

As the Office of Labor Relations and Collective Bargaining has done from time to time, we are issuing this memorandum to reiterate the importance of using progressive discipline in the discharge of non-pedagogical and non-competitive civil service employees. The discharge review procedures are set forth in the collective bargaining agreements covering them. A number of grievances we have received at Step 3 are problematic in that progressive discipline necessary for upholding the discharge has not always been imposed. We have repeatedly stressed that progressive discipline procedures generally must be followed prior to the discharge of employees. It would be helpful to restate these progressive discipline procedures.

This office's experience at arbitration involving cases concerning the disciplining of employees indicates that to prevail at arbitration we must give adequate notice to employees that they are in danger of dismissal and must first have applied progressive discipline, i.e., a graduated series of disciplinary actions varying from case to case which may include conferences with the employee to correct deficiencies and written warnings of possible discharge placed in the employee's folder. Additionally, the employee may be given a brief period of suspension. It is not mandatory that an employee be suspended without pay prior to the discharge. The employee must be told unequivocally that if he/she remains unsatisfactory, he/she will be dismissed. Our experience at arbitration suggests that it is not necessary to place an employee on probation prior to discharge. Instead of placing an employee "on probation" prior to discharge we recommend that you give the employee a final warning that they will be discharged if they are unsatisfactory during a specified time period. If the employee is satisfactory for that period of time, the final warning is withdrawn. If the employee is unsatisfactory during that period of time, he should be dismissed. (Of course, progressive discipline is inapplicable to those unusual situations where an immediate discharge is warranted.)

At present we enjoy a good rate of success in sustaining discharges of employees at arbitration. This has saved the Board and individual districts substantial funds in back pay awards. We are available to counsel superintendents, principals and other supervisors in the area of discipline prior to the point that a grievance reaches the Chancellor's level. Those desiring assistance beyond that which we have always made available by telephone should contact our office and ask to set up an appointment for a "Pre-Discharge Conference."

We would appreciate your giving a copy of this memorandum to any designee who hears grievances on your behalf and other appropriate staff. If you have any further questions, please contact me or George Foster of my Office at (718)935-2626.